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19 JAN 2006

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In re Application of
MORIMOTO, et al.

Application No.: 10/524,517

PCT No.: PCT/JP03/11204

Int. Filing Date: 02 September 2003

Priority Date: 05 September 2002

For: PROCESS FOR PRODUCING OXYCARBONYL
SUBSTITUTED PIPERAZINE DERIVATIVE

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Request For Filing Receipt/Notice of Acceptance" filed 26 September 2005 and again on 12 January 2006 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 02 September 2003, applicant filed international application PCT/JP03/11204. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 March 2005.

On 11 February 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; an executed combined declaration and power of attorney; a preliminary amendment and an Application Data Sheet.

On 09 August 2005, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. In addition, applicant was notified of the need to provide a surcharge of \$130.00 for filing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. (37 CFR 1.492(e)). Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 26 September 2005, applicant filed the present petition accompanied by a copy of the filed combined declaration and power of attorney, a stamped postcard receipt and a copy of the U.S. Express Mail label.

DISCUSSION

A review of the application file finds the original combined declaration and power of attorney contained therein. The paper is stamped "DT07 Rec'd PCT/PTO 11 FEB 2005." Thus it is clear that applicant included the executed declaration at the time of filing and there is no need to accept the copy presently provided. As such, applicant's petition under 37 CFR 1.181 is dismissed as moot. Further examination of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 11 February 2005.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **DISMISSED as moot**.

The application will be given an international filing date of 02 September 2003 under 35 U.S.C. 363 and a date of **11 February 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Missing Requirements" (Form PCT/DO/EO/905) mailed 09 August 2005 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating a 371 date as detailed above.



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